PATENT

Atty Docket No.: 200208134-1
App. Ser. No.: 10/632,412

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the amendments above and the following remarks. Claims 1, 3-12, 14-18 and 20 are pending of which claims 1, 12, and 16 are independent.

Claims 1, 3-7, 10, 12, and 14-16 have been amended. Support for the amendments may be found in the original filed specification on page. 23, lines 2-6 and page 17, lines 25-29, and page 18, lines 1-2; page 18, lines 2-25; page 11, lines 15-20, page 13, lines 5-20. Claims 2, 13, and 19 have been canceled herein without prejudice or disclaimer to the subject matter contained therein.

Claims 1, 12, and 16-18 were rejected under 35 U.S.C. §102(e) as allegedly being anticipated over Oehler et al. (2004/0003303), hereinafter "Oehler."

Claims 3-11, 14-15, and 20 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Oehler in view of Intel ACPICA, hereinafter "Intel."

These rejections are respectfully traversed for the reasons stated below.

Examiner Interview Conducted

The Applicants' representative wishes to thank Examiner Rahman for the courtesies extended during the interview conducted on September 14, 2006. During the interview, the amendment contained herein, and its relation to the prior art of record, was discussed. Examiner Rahman indicated that the amendment appeared to overcome the prior art of record, because the prior art of record failed to teach a software application informing a power management layer, through an API call, that the software application has a change in a processor or hardware resource requirement. The Examiner, however, reminded the

Applicants' representative that a further search of the prior art would be conducted before an indication of allowability could be made.

Claim Rejection Under 35 U.S.C. §102

The test for determining if a reference anticipates a claim, for purposes of a rejection under 35 U.S.C. § 102, is whether the reference discloses all the elements of the claimed combination, or the mechanical equivalents thereof functioning in substantially the same way to produce substantially the same results. As noted by the Court of Appeals for the Federal Circuit in *Lindemann Maschinenfabrick GmbH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984), in evaluating the sufficiency of an anticipation rejection under 35 U.S.C. § 102, the Court stated:

> Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

Therefore, if the cited reference does not disclose each and every element of the claimed invention, then the cited reference fails to anticipate the claimed invention and, thus, the claimed invention is distinguishable over the cited reference.

Claims 1, 12, and 16-18 were rejected under 35 U.S.C. §102(e) as allegedly being anticipated over Ochler. This rejection is respectfully traversed because Ochler fails to teach all the features of independent claims 1, 12, and 16, and the claims that depend therefrom.

More specifically, Ochler fails to teach a "software application informing the power manager layer, through an application programming interface (API) call embedded in the at least one of the plurality of software applications, of a change in a current processor or hardware resource requirement of the software applications," as recited in independent claims

1, 12, and 16. Oehler disclose a power authority monitoring power consumption levels and providing power consumption information to various systems. However, Oehler does not teach or suggest a "software application" informing a power manager layer of the software's current processor or hardware resource requirements. Accordingly, Oehler fails to teach or suggest the elements of independent claims 1, 12, and 16.

Moreover, Oehler fail to teach or suggest an API call embedded in the software application. In fact, Oehler makes no mention of an API call.

Additionally, Oehler fails to teach or suggest "real time power management includes changing the power state of at least one of said processor and said at least one hardware resource in response to the change in the current resource requirement of the at least one of the plurality of software applications," as recited in independent claims 1, 12, and 16. Oehler discloses only that power levels can be altered after the system has determined that a hardware device has not used all the power it has been receiving for a particular amount of time. Therefore, any change in power levels disclosed by Oehler is not in response to the needs of the hardware device, and is not related whatsoever to current requirements of software applications.

For at least the foregoing reasons, it is respectfully submitted that Oehler fails to teach each and every element of independent Claims 1, 12, and 16 and therefore cannot anticipate these claims. Accordingly, the Examiner is respectfully requested to withdraw the rejection of claims 1, 12, and 16, and to allow these claims, and the claims that depend therefrom.

Claim Rejections Under 35 U.S.C. §103(a)

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in MPEP § 706.02(j):

> To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Therefore, if the above-identified criteria are not met, then the cited reference(s) fails to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited reference(s).

Claims 3-11, 14-15, and 20 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Oehler in view of Intel ACPICA, hereinafter "Intel."

Claims 3-11, 14-15, and 20 are patentable over the prior art of record by virtue of their dependencies on allowable claims 1, 12, and 16, as set forth above. Accordingly, withdrawal of this rejection and allowance of the claims is respectfully requested.

In addition, with respect to claims 3 and 14, Oehler fails to teach or suggest that "API call includes at least one of a notification that the at least one of the plurality of software applications has been initiated and a notification that the at least one of the plurality of software applications has ended." Oehler is silent with respect to the operation of the software applications running on the hardware.

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Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

Dated: October 25, 2006 By

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